

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Renard Rucker,

File No. 18-cv-01153 (ECT/DTS)

Petitioner,

**ORDER ACCEPTING REPORT
AND RECOMMENDATION**

v.

Warden Eddie Miles, Jr.,

Respondent.

Petitioner Renard Rucker (“Rucker”) commenced this action pro se by filing a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pet. at 1 [ECF No. 1]. He brings three claims regarding ineffective assistance of counsel. Pet. at 9–17. The case is before the Court on a Report and Recommendation [ECF No. 21] issued by Magistrate Judge David T. Schultz. Magistrate Judge Schultz recommends dismissing Rucker’s petition with prejudice as all three claims are procedurally defaulted. R&R at 4, 6–8, 10. Alternatively, Magistrate Judge Schultz found that conceivably one claim is not defaulted, but that claim should nonetheless be dismissed because Rucker failed to carry his burden in establishing that he had been prejudiced as required by the second prong in the analysis outlined in *Strickland v. Washington*, 466 U.S. 668 (1984). R&R at 9–10. Rucker filed objections to the Report and Recommendation. ECF No. 26. In response to Rucker’s objections, Respondent filed a very short pleading indicating that “[t]he objections do not raise any new issues,” such that Respondent would not file a further response. ECF No. 27. Because Rucker has objected, the Court is required to review the Report and

Recommendation de novo pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b)(3). The Court has undertaken that de novo review and has concluded that Magistrate Judge Schultz's analysis and conclusions are correct.

Therefore, based upon all of the files, records, and proceedings in the above-captioned matter, **IT IS HEREBY ORDERED** that:

1. The Objections to the Report and Recommendation are **OVERRULED** [ECF No. 26];
2. The Report and Recommendation [ECF No. 21] is **ACCEPTED**;
3. The Motion to Dismiss [ECF No. 10] is **GRANTED**; and
4. The Petition for Writ of Habeas Corpus [ECF No. 1] is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 25, 2019

s/ Eric C. Tostrud
Eric C. Tostrud
United States District Court